

AMENDMENTS TO THE DRAWINGS

“Replacement Sheets” are attached which include a clean version of amended Figs. 1, 2, and 6. The attached sheets replace the original drawing sheets including Figs. 1, 2, and 6 filed on March 1, 2004 as well as the REPLACEMENT SHEETS filed on May 2, 2005 for Figs. 1 and 2.

REMARKS

Applicant respectfully requests reconsideration. Claims 1, 4-9, 12-17, 20-22, 28-33 and 44-46 were previously pending in this application. By this amendment, Applicant is canceling claims 12 and 28 without prejudice or disclaimer. Claims 1, 4, 7-9, 13-17, 29-30, 32-33, and 45-46 have been amended. Claims 47-48 have been added. As a result, claims 1, 4-9, 13-17, 20-22, 29-33 and 44-48 are pending for examination with claims 1, 17, 32 and 33 being independent claims. No new matter has been added.

I. Objections to the Drawings

The Office Action objected to the drawings submitted on May 6, 2005, because they were mistakenly labeled to replace Figs. 1 and 2. The replacement sheets were intended to replace original Figs. 2 and 6. Accordingly, Applicants herein submit Replacement Sheets for Figs. 1, 2 and 6.

The replacement sheets for Figs. 1 and 2 supersede the submission of the replacement sheets filed on May 6, 2005. The replacement sheets for Figs. 2 and 6 address the initial requirement for replacement drawings for Figs. 2 and 6 dated May 24, 2004.

Withdrawal of the objection to the drawings is respectfully requested.

II. Objections to the Specification

The Office Action objected to the specification because the brief and detailed descriptions of Figs. 1 and 2 on pages 3-7 did not correspond with what was shown in Figs. 1 and 2 submitted on May 6, 2005.

Applicant has herein submitted replacement sheets for Figs. 1, 2, and 6. The replacement sheets now illustrate that which is described on pages 3-7 of the Specification.

Accordingly, withdrawal of this objection is respectfully requested.

III. Claim Rejections under 35 U.S.C. §112

Claims 8 and 9 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite.

Claims 8 and 9 have been amended herein. Withdrawal of the rejection of claims 8 and 9 under 35 U.S.C. §112 is respectfully requested.

IV. Claim Rejections Under 35 U.S.C. §102

Claims 1, 7, 12, 15, 17, 28, 30-32, 44 and 45 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,901,096 ("Lemelson"). Applicants respectfully disagree.

A. Independent Claim 1 and its Dependents

Independent claim 1 is directed to a portable recall device configured to be carried by a wearer. The portable recall device comprises a controller "to determine whether to capture an image using [a] camera" by determining whether "a change in a level of the ambient light is above a first threshold change."

As understood, Lemelson is directed to a camera that can be controlled to "prevent the recording of picture information which is blurred due to camera movement" (Lemelson, Abstract). Lemelson describes that a camera may be operated to capture an image in response to a lever or button being pushed indicating that a user wishes to capture an image (Col. 2, lines 39-48 and lines 63-65). When the user operates the button or lever to capture an image, the shutter is opened (Col. 2, lines 48-52). The shutter may be opened for a set amount of time based on a metering of an amount of ambient light, such that the exposure time may be shortened or lengthened based on the amount of ambient light (Col. 3, lines 4-11). Additionally, a motion sensor may be used to determine whether a camera is moving and, if it is determined that the camera is moving, prevent or delay an image from being captured (Col. 3, lines 12-29).

Accordingly, in Lemelson a manual button or lever is used to determine *whether* to take a picture using the camera, while other components of the camera (such as the electronic light meter and motion sensor) determine *how* and *when* to take the picture. The camera of Lemelson determines whether to take a picture when a user operates the button or lever to request that a picture be taken.

Claim 1, however, recites that a controller is adapted to determine "whether to capture an image" by determining whether a change in a level of ambient light is above a first threshold. Lemelson does not recite any such controller that determines "whether to capture an image."

Further, Lemelson appears to describe that a shutter may be operated to be open a "select time interval" based on an amount of ambient light (Lemelson, col. 3, lines 5-8). Lemelson does

not describe, though, that any determination may be made based on a “*change* in a level of the ambient light,” as recited by claim 1 (emphasis added). Rather, Lemelson appears only to make decisions based on an amount of light, and not a change.

Therefore, for at least these reasons, claim 1 patentably distinguishes Lemelson and is allowable. Claims 4, 7-9, 13-16, and 44 depend from claim 1, and are allowable for at least the same reasons. Withdrawal of these rejections is respectfully requested.

B. Other claims

Each of the other claims 17, 20-22, 29-32, 45, 47, and 48—including independent claims 17 and 32—distinguish Lemelson for at least reasons that should be appreciated from the foregoing. For example:

- independent claim 17 recites a method comprising “determining whether a capture condition is satisfied by comparing a change in the at least one ambient condition to at least one second threshold,” “determining whether to capture an image based at least in part on whether [a] stable condition and the capture condition are satisfied” and “when it is determined that an image should be captured, capturing an image;” and

- independent claim 32 recites a computer readable storage medium encoded with instructions that cause a computer to perform a method comprising “detecting whether a capture condition is satisfied by ... comparing a change in the at least one ambient condition to a first threshold” and “determining whether to capture an image based at least in part on whether [a] capture condition is satisfied” and “when it is determined that an image is to be captured ... capturing an image;”

As discussed above, Lemelson describes that a picture is taken in response to manual operation of a button or lever of the camera. Lemelson does not describe determining *whether* to capture an image based on a *change* in at least one ambient condition.

Therefore, for at least these reasons, claims 17 and 32 patentably distinguish Lemelson and are allowable. Claims 20-22, 29-31, 45, 47, and 48 depend from claim 17 and are allowable for at least the same reasons. Withdrawal of these rejections is respectfully requested.

V. Claim Rejections Under 35 U.S.C. §103

Claims 33 and 46 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lemelson in view of U.S. Patent No. 5,978,603 ("Shiozaki"). Applicants respectfully disagree.

For reasons that should be appreciated from the foregoing discussion, Lemelson does not teach or suggest a digital media player comprising "a controller ... to determine whether to capture an image" and "determining whether a change in a level of the ambient light is above a first threshold," as recited by claim 33.

Shiozaki describes a camera having a camera body of a particular shape (Shiozaki, col. 1, line 62, to col. 2, line 10). Shiozaki is not cited as teaching the limitations highlighted above not met by Lemelson.

As neither reference teaches or suggests the controller recited by claim 33, no combination of the references could teach or suggest all limitations of claim 33.

Therefore, for at least these reasons, claim 33 patentably distinguishes any combination of Lemelson and Shiozaki and is allowable. Claim 46 depends from claim 33 and is allowable for at least the same reasons. Withdrawal of these rejections is respectfully requested.

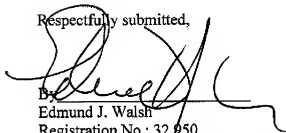
CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M1103.70797US00.

Dated: September 8, 2009

Respectfully submitted,



Edmund J. Walsh
Registration No.: 32,950
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
617.646.8000

Enclosures:

Replacement drawing sheets